IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R.No. 43 of 1999
Date of decision: October 18, 2006

The Commissioner of Income-tax, Patiala

v.

M/s Vardhman Spinning and General Mills Ltd.

Present: Mr.S.K.Garg Narwana, Advocate for the applicant.
Mr.Akshay Bhan, Advocate for the respondent.

CORAM:

Hon'ble Mr.Justice Adarsh Kumar Goel
Hon'ble Mr.Justice Rajesh Bindal

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Rajesh Bindal, J.

Following questions of law has been referred for opinion of this Court by the Income-Tax Appellate Tribunal, Chandigarh Bench (for short, `the Tribunal'), arising out of its order dated 12.7.1994, in I.T.A. No. 517/Chandi/88, in respect of assessment year 1981-82:

> "1. Whether, CIT and Tribunal have rightly allowed the claim of the assessee in respect of ESA by treating the concern as a whole ?
> 2. Whether, on the facts and in the circumstances of the case, the ITAT is right in upholding the orders passed by CIT(A) with regard to the grant of ESA on the cost of electrical installation ?"

Question No.1

An identical question has been gone into by this Court in I.T.R. No. 9 of 1995-- The Commissioner of Income-tax, Patiala v. M/s Hind Woollen & Hosiery Mills, Ludhiana, decided on 5.9.2006, wherein following the judgment of Hon'ble the Supreme Court in South India Viscose Ltd. v. Commissioner of Income-Tax, (1997) 227 ITR 286, the same has been answered against the Revenue and in favour of the assessee.

For the reasons stated therein, the question is answered against the Revenue and in favour of the assessee.

Question No.2

An identical question has been gone into by this Court in I.T.R. No. 60 of 1988 – Commissioner of Income-tax (Central), Ludhiana v. M/s Oswal Woollen Mills Ltd., decided on 19.4.2006, wherein the question has been answered against the Revenue and in favour of the assessee.

Counsel for the Revenue has not cited any judgment taking a view contrary to what has been referred to above.

For the reasons stated in the judgment, referred to above, the question is answered against the Revenue and in favour of the assessee.

The reference is disposed of in the manner indicated above.

(Rajesh Bindal)
Judge

(Adarsh Kumar Goel)
Judge

18.10.2006
mk